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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,540	03/01/2002	Russell Savio	60,518-012	8359

27305 7590 11/22/2004

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/082,540

Applicant(s)

SAVIO ET AL.

Examiner

Binh-An D. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8,21-25 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,21-25 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3713

### DETAILED ACTION

1. The Amendment filed in April 9, 2004 has been received. According to the Amendment, claim 1 has been amended; and claims 9-20, 26-37, 39, and 40 have been canceled. Currently, claims 1-8, 21-25, and 38 are pending in the application.

Note that, the instant application claims priority on U.S. Application 09/966234, however, it appears that the instant application is a continuing of application 09/966234 and application 09/966234 has been abandoned prior to filing date of the instant application. Further, applicants' submission of a copy of extension of time sent April 9, 2004 is not valid since the extension was for a different application, i.e., 09/966,468, therefore the priority is not considered.

Acknowledgment has been made.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 21-25, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford (US 2003/0017868 A1) in view of Kaplan (5,413,342).

Crawford teaches a video slot gaming machine, method, or computer program embodied in a medium (having computer readable program code means thereto) for playing by a player (Figures 1-2), comprising: a housing having a display device for

Art Unit: 3713

displaying a plurality of game elements in a grid having a plurality of cells (Fig.1); a memory device (215) for storing a pay-table (paragraph numeral 36); a game controller (210) coupled to the display device (230) and the memory device (215) (and random generator 220) for randomly selecting the game elements to be displayed in the display device and for determining an outcome based on the displayed game elements, a pay-table, predetermined vertical pay-lines, and a wager made by the player (paragraph numerals 30-35, 38); the game controller is adapted to randomly select a game element for each cell (paragraph numerals 36); and select a stopping position for each array; and wherein the memory device is adapted to store a plurality of arrays of game elements (predetermined winning payline patterns) (paragraph numeral 36).

Crawford does not teach the limitations of the cells represent a plurality of horizontal reels (claims 1, 21, and 38); the game controller is adapted to animate the display device to represent the spinning (or sliding) of horizontal reels (claims 2 and 22). Kaplan, however, teaches a slot machine comprising horizontal reels having cells including a plurality of arrays of game elements thereon (figs.1-8); spinning (or sliding) of horizontal reels.

Regarding the limitations of a the set of possible game elements includes gems and symbols representing the legs, torso and arms, and head of first, second, and third characters (claim 6); the first, second, and third characters have different shapes (claim 7); and wherein the first, second, and third characters have different colors (claim 8), it is notoriously well known in the gaming industry to have game elements comprising gems or human characters; thus, it would have been obvious to a person of ordinary

Art Unit: 3713

skill in the art to use different body parts with different colors as game elements for a video slot machine.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide a method for playing slot machine having horizontal reels of Kaplan to Crawford's video slot machine to provide real experience and enhance the friendly user interface of slot machine thus attract more game players and increase profit.

#### ***Response to Amendment***

4. The Declaration filed on April 9, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Crawford (US 2003/0017868) reference.

5. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Crawford reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The conception presented by some sketches and few highlights under "Stick Figure Game," and a photocopy of compact disk do not present a full concept of applicants' invention of an apparatus and method for playing a video slot gaming

Art Unit: 3713

machine having a payable and predetermined vertical paylines with disclosure that would bring forth a working gaming apparatus. See MPEP 2138.04

6. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date, July 19, 2001, of the Crawford reference. The presented simple sketches absent details on the functions of the game, and a photocopy of compact disk (unable to ascertain disk contents) are insufficient to establish a reduction to practice that would provide a working video slot machine and method having a payable and predetermined vertical paylines.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Art Unit: 3713

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703-308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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